

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**DERRICK JONES, JEROME)
JONES DARNELL RUSAN, and)
MARREL WITHERS,)**

Plaintiffs,

vs.

Case No. 4:21-cv-600

CITY OF ST. LOUIS, *et al.*,)

Defendants.)

**DEFENDANTS' RESPONSE TO PLAINTIFFS' EMERGENCY MOTION
TO PRESERVE RELEVANT VIDEOS**

COME NOW, Defendants, by undersigned counsel, and for their Response To Plaintiffs' Emergency Motion To Preserve Relevant Videos state as follows:

In what must be considered the introduction to Plaintiffs' rather breathless motion Plaintiffs make several inflammatory, derogatory, and *inaccurate* factual representations.

First, Plaintiffs indicate that Defendants are withholding relevant evidence in this case. Plaintiffs do not dispute that Defendants have already produced in excess of 14,000 pages of documents and video recordings in this case, including video of Plaintiffs' now convicted carjacker, Derrick Jones, attacking Lt. Aisha Jones and Plaintiff Darnell Rusan attacking Lt. Shirley Richards. Defendants have and

continue to produce documents in this case in response to discovery according to the federal rules of civil procedure. Plaintiffs' representations to this Court relative to Defendants' document production is inaccurate.

Second, Defendants have not destroyed any relevant and discoverable evidence. Plaintiffs' claims concern four discrete individuals: Derrick Jones, Jerome Jones, Darnell Rusan, and Marrell Withers. As previously mentioned, Defendants have preserved and Plaintiffs have been provided all video footage that has been recorded relative to use of force involving Derrick Jones as referenced in Plaintiff's Exhibit A, Doc. #239-1, and for that matter, the other three defendants in this case as well.

The City Justice Center (hereinafter "CJC") records video images of all its security cameras automatically. These images remain in the camera control system for 60 days, at which point the camera system automatically overwrites the images with new image data. Exh. A, Deposition of the City of St. Louis' Corporate Representative, Edward Roth, January 6, 2023 (hereinafter "Roth") 22:19-23; 23:9-25; 24:1-2, 24-25; 25:1-19. Defendant City of St. Louis has the ability to download image data if and when data from a specific date or involving specific individuals is requested within that 60-day period. As the record, or more precisely absence of a record reflects, Plaintiffs made no such request within the aforesaid 60-day period.

At no time did Defendants or any of their agents ever agree that Defendants would alter CJC procedures and download every video image of any use of Oleo Capsicum (hereinafter “OC”) spray within the confines of the CJC at any time in perpetuity. Any representation by Plaintiffs to the contrary is patently false.

Plaintiffs’ representations are not only false, but obviously so. The CJC is currently operating with critically low staffing levels. Doc. #207-3. As such, it would be virtually impossible for CJC staff to review the millions of images from every camera in the CJC operating every day and night, manually download them, and provide storage for them indefinitely, all based on the premises that someone may decide at some point after 60 days that they might want to see it. Exh. A, Roth 27:8-25, 28:1-15. Such a proposition is an undue burden on the taxpayers of the City of St. Louis and certainly not proportional to the needs of this case.

Third, there is no evidence that any Defendant in this case or any corrections officer of the CJC ever used mace against anyone. The CJC may on occasion employee the use of OC spray, but does not use mace in any capacity in its operations and certainly not against detainees. Exh. B, Deposition of Sherry Richards, September 7, 2022, 99:24-25; 100:1-6.

CONCLUSION

Plaintiffs have made wild accusations against Defendants for which they have no factual basis. For the foregoing reasons, and because they are *not* relevant,

Defendants pray this Court deny Plaintiffs' Emergency Motion To Preserve Relevant Videos.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2023 the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all attorneys of record.

/s/ Lawrence Pratt